

KAREN P. HEWITT
United States Attorney
CHRISTOPHER M. ALEXANDER
Assistant U.S. Attorney
California Bar. No. 201352
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893
Telephone: (619) 557-7425 /(619) 235-2757 (Fax)
Email: Christopher.M.Alexander@usdoj.gov

Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Plaintiff,

V.

MIGUEL ANGEL REYES-CANUL,

Defendant.

Criminal Case No. 08CR1022-IEG

HEARING DATE: June 2, 2008
TIME: 2:00 p.m.

UNITED STATES' MOTIONS FOR:
(1) RECIPROCAL DISCOVERY; AND
(2) FINGERPRINT EXEMPLARS.

TOGETHER WITH MEMORANDUM OF
POINTS AND AUTHORITIES

1 COMES NOW the plaintiff, the UNITED STATES OF AMERICA, by and through its counsel,
2 KAREN P. HEWITT, United States Attorney, and Christopher M. Alexander, Assistant United States
3 Attorney, and hereby files its Motions for Reciprocal Discovery and Fingerprint Exemplars. These
4 Motions are based upon the files and records of the case together with the attached memorandum of
5 points and authorities.

6 **I**

7 **STATEMENT OF THE CASE**

8 On April 9, 2008, a Indictment was returned in the Southern District of California charging
9 Defendant Miguel Angel Reyes-Canul ("Defendant") with importation of 35.54 kilograms
10 (approximately 78.18 pounds) marijuana in violation of 21 U.S.C. §§ 952 and 960, and possession of
11 35.54 kilograms (approximately 78.18 pounds) marijuana with intent to distribute in violation of 21
12 U.S.C. § 841(a)(1). On April 15, 2008, the Court arraigned Defendant on the Indictment and entered
13 a not guilty plea. The Court scheduled a motion hearing date for June 2, 2008.

14 **II**

15 **THE UNITED STATES' MOTION FOR**
16 **RECIPROCAL DISCOVERY SHOULD BE GRANTED**

17 As of this date, Defendant has produced no reciprocal discovery. The United States requests that
18 Defendant comply with Rule 16(b) of the Federal Rules of Criminal Procedure, as well as Rule 26.2
19 which requires the production of prior statements of all witnesses, except for those of Defendant.
20 Defendant has not provided the United States with any documents or statements. Accordingly, the
21 United States will object at trial and ask this Court to suppress any evidence at trial which has not been
22 provided to the United States.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **III**

2 **THE UNITED STATES' MOTION FOR**
 3 **FINGERPRINT EXEMPLARS SHOULD BE GRANTED**

4 Part of the United States' burden of proof in this case is to satisfy the jury that Defendant was
 5 involved in the smuggling incident. To make that showing, the United States may call an expert in
 6 fingerprint identification to match Defendant's fingerprints to relevant evidence. The most efficient and
 7 conclusive manner of establishing this information is to permit the expert witness to take a set of
 8 Defendant's fingerprints for comparison.

9 A defendant's fingerprints are not testimonial evidence. See Schmerber v. California, 384 U.S.
 10 757 (1966). Using identifying physical characteristics, such as fingerprints, does not violate a
 11 defendant's Fifth Amendment right against self-incrimination. United States v. DePalma, 414 F.2d 394,
 12 397 (9th Cir. 1969); Woods v. United States, 397 F.2d 156 (9th Cir. 1968); see also United States v. St.
 13 Onge, 676 F. Supp. 1041, 1043 (D. Mont. 1987). The United States, therefore, requests that this Court
 14 order that Defendant make herself available for fingerprinting by the United States.

15 **IV**

16 **CONCLUSION**

17 For the foregoing reasons, the United States requests that the Court grant its motions for
 18 reciprocal discovery and fingerprint exemplars.

19 DATED: April 22, 2008

Respectfully submitted,

20 KAREN P. HEWITT
 21 United States Attorney

22 *s/Christopher M. Alexander*

23 CHRISTOPHER M. ALEXANADER
 24 Assistant United States Attorney
 25 Attorneys for Plaintiff
 26 United States of America
 27 Email: Christopher.M.Alexander@usdoj.gov
 28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Criminal Case No. 08CR1022-IEG

Plaintiff,

v.

MIGUEL ANGEL REYES-CANUL,

Defendant.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, CHRISTOPHER ALEXANDER, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of United States' Motions for (1) reciprocal discovery, together with memorandum of points and authorities on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

1. Julie Blair, Esq.
Atty for Defendant

I hereby certify that I have caused to be mailed the foregoing, by the United States Postal Service, to the following non-ECF participants on this case:

None

the last known address, at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 22, 2008.

s/Christopher M. Alexander

CHRISTOPHER M. ALEXANDER